IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24430 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ADINATH (VEJALPUR) COOPERATIVEHSG.SOCI.LTD. & 1 - Petitioners

Versus

TORRENT POWER AEC LTD. THR' GENERAL MANAGER & 1 - Respondents

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Appearance :

MS MN UKANI for Petitioners
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 27/12/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the board indicates that both the respondents are duly served with notice for final disposal of the petition. However, none of the respondents has appeared either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondents. Having regards to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, the petitioners have prayed to direct the respondent No.1 i.e. The Torrent Power A.E.C.Ltd., to grant eight electric connections to the Commercial Units constructed by the petitioners.

3. The land bearing Sub-Plot No.1 of Final Plot No.4 + 5 + 6 of Town Planning Scheme No. 23 + 25 of village Vejalpur, Taluka : City, District : Ahmedabad belonged to Gayatrikrupa Government Employees Cooperative Housing Society Ltd. The said Society was divided into five different Societies under the provisions of Section 17 of the Gujarat Cooperative Societies Act, 1961. As per the sanction order dated March 31, 2001, land bearing Revenue Survey No.883/part, 835/part and 916/part was allotted to Abhinandan Swami (Vejalpur) Cooperative Housing Society Ltd. The said Society was further divided into two different Societies under the provisions of Section 17 of the Gujarat Cooperative Societies Act in accordance with the Sanction Order dated October 28, 2002. As per the said order, land bearing Revenue Survey No.883/part and 916/part is allotted to the petitioner No.1-Society. The

petitioners were desirous of developing the land belonging to the petitioner No.2. Therefore, the petitioner No.2 with the Secretary of Padmavati (Vejalpur) Cooperative Housing Society Ltd. applied to Ahmedabad Urban Development Authority to grant development permission. The record shows that the development permission was granted to the petitioners on September 28, 2006, which is quite evident from the contents of document produced at Annexure-B to the petition. The case of the petitioners is that after obtaining development permission, the petitioners have constructed 8 commercial Units. After construction of the commercial Units was over, it was the duty of the petitioners to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electric connection to the Units constructed by them. However, without obtaining Building Use Permission, the petitioners applied to the respondent No.1 for supply of electric connections to the Units constructed by them. The

said request has been turned down by the respondent No.1, which is quite evident from the contents of letter dated November 20, 2006 addressed by General Manager of the respondent No.1 to the petitioners, a copy of which is produced by the petitioner at Annexure-C to the petition. By the said communication, the petitioners have been called upon to produce Building Use Permission to enable the respondent No.1 to supply electricity connection to the Units constructed by them. Under the circumstances, the petitioners have filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing on November 27, 2006 and after hearing the learned Counsel for the petitioners, notice for final disposal of the petition was issued. As observed earlier, both the respondents are duly served, but, none of them has appeared before the Court nor contested the petition.

5. This Court has heard Ms. M.N.Ukani, learned Counsel for the petitioners and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if the following directions are issued:

(1) The petitioners will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioners shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to eight commercial Units constructed by them with a proper application/form/format and by paying

charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to eight commercial Units constructed by the petitioners within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to eight commercial Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the commercial Units constructed by the petitioners within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to eight commercial Units

constructed by the petitioners within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the commercial Units constructed by the petitioners.

(7) The petitioners shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to eight commercial Units constructed by them. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)